

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA  
PITTSBURGH

RICARDO NOBLE,

Plaintiff,

vs.

JOHN WETZEL, SECRETARY OF PA  
D.O.C.; ROBERT GILMORE, SCI GREENE  
SUPERINTENDENT; MARIA  
BALESTRIERI, GREENE PRISON  
COUNSELOR; STEVE LONGSTRETH,  
SCI GREENE PRISON COUNSELOR;  
MICHAEL STELLA, SCI GREENE  
PRISON COUNSELOR; ERICKSON, SCI  
GREENE PRISON COUNSELOR; AND  
PROGRAM REVIEW COMMITTEE,

Defendants,

2:18-CV-01160-MJH

**MEMORANDUM ORDER**

This case has been referred to United States Chief Magistrate Judge Cynthia Reed Eddy for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rule 72 of the Local Rules for Magistrate Judges.

On May 11, 2020, the Magistrate Judge issued a Report and Recommendation, ECF No. 88, recommending that Defendants' Motion to Dismiss, ECF No. 61, be granted in part and denied in part. In particular, the Magistrate Judge recommended 1) granting dismissal of Plaintiff's Equal Protection claim; and 2) denying dismissal with respect to Plaintiff's Eighth Amendment, First Amendment/RLUIPA, and conspiracy claims.

The parties were advised that written objections to the Report and Recommendation were due by May 26, 2020, and for non-ECF filers, such as Plaintiff, Objections were due by May 29, 2020. Plaintiff timely mailed Objections, which were filed on the docket on May 27, 2020.

(ECF No. 90). Any response to those objections were due June 12, 2020; however, none was filed. Upon review of Plaintiff's Objections, they do not undermine the recommendation of the Magistrate Judge.

Accordingly, after *de novo* review of the pleadings and the documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 15<sup>th</sup> day of June, 2020, it is hereby ORDERED as follows:

The Magistrate Judge's Report and Recommendation, ECF No. 88, dated May 11, 2020, is adopted as the Opinion of the Court.

IT IS FURTHER ORDERED that Defendants' Motion to Dismiss, ECF No. 62, is GRANTED in part and DENIED in part.

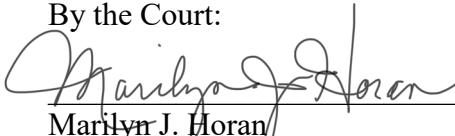
IT IS FURTHER ORDERED that:

1. Defendants' Motion to Dismiss, as to Plaintiff's Equal Protection Claim, is granted. Because Plaintiff was previously granted leave to amend his Equal Protection Claim, any further attempt to amend this claim is deemed futile.

2. Defendants' Motion to Dismiss, as to Plaintiffs' Eighth Amendment, First Amendment/RLUIPA, and Conspiracy claims, are denied.

Defendants shall file their Answer to Plaintiff's First Amended Complaint in accordance with the Federal Rules of Civil Procedure.

By the Court:

  
Marilyn J. Horan  
United States District Judge

cc: Ricardo Noble  
BX-9351  
SCI Greene  
175 Progress Drive  
Waynesburg, PA 15370